

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CORNELIUS WYATT,
TDCJ #631802,
Plaintiff,

v.

JOHN DOE, *et al.*,
Defendants.

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CIVIL ACTION NO. H-06-1343

ORDER

On April 27, 2006, this Court dismissed the civil rights complaint filed by state inmate Cornelius Wyatt, without prejudice, for lack of exhaustion. Wyatt has filed a notice of appeal and he seeks leave to proceed on appeal *in forma pauperis*. This case is governed by the Prison Litigation Reform Act (the "PLRA"), 28 U.S.C. § 1915(b), which requires prisoners to pay an initial partial filing fee for all civil actions and appeals. The PLRA also requires prisoners to pay thereafter the balance of the full filing fee. For the complaint in this case, which is dated April 13, 2006, the district court filing fee is \$350.00. The appellate filing fee is \$455.00.

Based on the certified inmate trust account statement provided by the plaintiff, the Court **ORDERS** as follows:


1. The application for leave to proceed *in forma pauperis* (Doc. #9) is **GRANTED**.
2. The plaintiff is not assessed an initial partial filing fee because his application shows he lacks the requisite funds.

3. The plaintiff shall pay the full balance of the appellate filing fee (\$455.00) in periodic installments as required by 28 U.S.C. § 1915(b). Because no collection order was entered previously to collect the district court filing fee in this case, the plaintiff shall also pay the balance of the district court filing fee (\$350.00) in periodic installments as required by 28 U.S.C. § 1915(b). The agency shall collect these amounts from the plaintiff's inmate trust account or institutional equivalent and forward it to the Court when funds are available.
4. The plaintiff is responsible for signing all consents and other documents required by the agency having custody of plaintiff to authorize the necessary withdrawal from the plaintiff's inmate trust account.
5. The plaintiff's motion for appointment of counsel (Doc. #10) is **DENIED**.

The Clerk will send copies of this order to the parties, to TDCJ - Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas 78711, fax 512-936-2159, and to the TDCJ Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629, fax 936-437-4793.

The Clerk will provide copies of this order to the parties.

SIGNED at Houston, Texas, on **June 15, 2006**.



Nancy F. Atlas
United States District Judge